

112TH CONGRESS
2D SESSION

S. 3545

To amend title 11 of the United States Code to clarify the rule allowing discharge as a nonpriority claim of governmental claims arising from the disposition of farm assets under chapter 12 bankruptcies.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2012

Mr. GRASSLEY (for himself and Mr. FRANKEN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title 11 of the United States Code to clarify the rule allowing discharge as a nonpriority claim of governmental claims arising from the disposition of farm assets under chapter 12 bankruptcies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Farmer Bank-
5 ruptcy Tax Clarification Act of 2012”.

1 **SEC. 2. CLARIFICATION OF RULE ALLOWING DISCHARGE**
2 **TO GOVERNMENTAL CLAIMS ARISING FROM**
3 **THE DISPOSITION OF FARM ASSETS UNDER**
4 **CHAPTER 12 BANKRUPTCIES.**

5 (a) IN GENERAL.—Section 1222(a) of title 11,
6 United States Code, is amended—

7 (1) in paragraph (2), by striking “unless—”
8 and all that follows through “the holder” and insert-
9 ing “unless the holder”;

10 (2) in paragraph (3), by striking “and” at the
11 end;

12 (3) in paragraph (4), by striking the period at
13 the end and inserting “; and”; and

14 (4) by adding at the end the following:

15 “(5) notwithstanding the application of the
16 rules under subchapter V of chapter 1 of the Inter-
17 nal Revenue Code of 1986, and without regard to
18 whether the claim arose before or after the filing of
19 the petition, provide for the treatment and payment
20 of any unsecured claim owed to a governmental unit
21 by the debtor or the estate that arises as a result
22 of the sale, transfer, exchange, or other disposition
23 of any farm asset used in the debtor’s farming oper-
24 ation as an unsecured claim that is not entitled to
25 priority under section 507.”.

1 (b) POSTPETITION CLAIMS RELATING TO SALE,
2 TRANSFER, EXCHANGE, OR OTHER DISPOSITION OF
3 FARM ASSETS.—

4 (1) IN GENERAL.—Section 1222 of title 11,
5 United States Code, is amended by adding at the
6 end the following:

7 “(e)(1) A governmental unit may file a proof of claim
8 for a claim described in subsection (a)(5) that arises after
9 the date on which the petition is filed.

10 “(2)(A) Except as provided in subparagraph (B), if
11 a governmental unit has not filed a proof of claim under
12 paragraph (1) for a claim described in subsection (a)(5),
13 after the date that is 120 days after the date on which
14 the claim arises, the trustee or the debtor may file proof
15 of such claim.

16 “(B)(i) For a claim described in subsection (a)(5)
17 that is a tax for which a return is due, if the debtor or
18 trustee has provided notice as described in clause (ii) and
19 the governmental unit has not filed a proof of claim under
20 paragraph (1), after the date that is 180 days after the
21 date on which the debtor or trustee provides the notice,
22 the debtor or the trustee may file proof of such claim.

23 “(ii) Notice as described in this clause is notice by
24 the debtor or the trustee—

1 “(I) indicating the intent to file the applicable
2 claim;

3 “(II) setting forth the amount of the claim;

4 “(III) that includes a copy of the filed return
5 relating to the claim; and

6 “(IV) that is delivered to the governmental unit
7 at the address designated for requests made under
8 section 505(b)(1)(A).

9 “(3) A claim filed under paragraph (1) or (2) shall
10 be allowed or disallowed under section 502, but shall be
11 determined as of the date such claim arises, and shall be
12 allowed under section 502 (a), (b), or (c) of this title, or
13 disallowed under section 502(d) or 502(e) of this title the
14 same as if such claim had arisen before the date of the
15 filing of the petition.”.

16 (2) MODIFICATION OF PLAN AFTER CONFIRMA-
17 TION.—Section 1229(a) of title 11, United States
18 Code, is amended—

19 (A) in paragraph (2), by striking “or” at
20 the end;

21 (B) in paragraph (3), by striking the pe-
22 riod at the end and inserting “; or”; and

23 (C) by adding at the end the following:

1 “(4) provide for the payment of a claim de-
2 scribed in section 1222(a)(5) that arose after the
3 date on which the petition is filed.”.

4 (c) TECHNICAL CORRECTION.—Section 1228(a) of
5 title 11, United States Code, is amended in the matter
6 preceding paragraph (1)—

7 (1) by inserting a comma after “all debts pro-
8 vided for by the plan”; and

9 (2) by inserting a comma after “allowed under
10 section 503 of this title”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to any bankruptcy case that—

13 (1) is pending on the date of enactment of this
14 Act and relating to which an order of discharge
15 under section 1228 of title 11, United States Code,
16 has not been entered; or

17 (2) commences on or after the date of enact-
18 ment of this Act.

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